

## REMARKS

### Summary of the Office Action

Claims 1, 3-13, and 15-21 are pending in this application.

Claims 1, 3, 6, 7, 9-12, 17, 18 and 20 have been rejected as allegedly anticipated by U.S. Patent No. 4,569,347 to Frisbie ("Frisbie").

Claims 4, 5, 8, and 21 have been rejected as allegedly obvious over Frisbie in view of U.S. Patent No. 5,573,520 to Schwartz ("Schwartz").

Claim 13 has been rejected as allegedly obvious over Frisbie in view of U.S. Patent No. 5,902,254 to Magram ("Magram"). Applicant believes that the rejection of claim 12 instead of 13 on page 4 of the Office Action was due to a typing error.

Claims 15 and 19 have been rejected as allegedly obvious over Frisbie in view of U.S. Patent No. 6,475,209 to Larson et al. ("Larson").

Claim 16 has been rejected as allegedly obvious over Frisbie in view of Schwartz and further in view of Larson.

### Applicant' Response

#### **The Anticipation Rejection under 35 U.S.C. § 102(b)**

Applicants have amended independent claims 1 and 17 to patentably distinguish over the prior art of record. In particular, independent claim 1 has been amended to recite that the bending section is included in the catheter shaft and that the catheter shaft has "a permanently affixed bending section."

As amended, claims 1 and 17 are patentably distinguishable over Frisbie. Support for this recitation is

found in FIG. 1 and in the related description of the specification, e.g. at paragraphs [0031]-[0033].

Frisbie is directed at a **catheter introducing device** for inserting a dilatation catheter into a guiding catheter, which consists of a flexible tubular member formed of a flexible material. This catheter introducing device is essentially a guide tube 12 that is **temporarily wrapped-around the catheter shaft**, and which **does not form part of the catheter**. Accordingly, tube 12 does not meet the limitations of amended claims 1 and 17 that the bending section is "**permanently affixed**" to the catheter but tube 12 is instead removed after insertion of the dilatation catheter. Tube 12 of Frisbie includes **a pull member** at one end and a spiral cut **along the entire length** of the catheter. It is noteworthy that Frisbie does mention any kink-prevention properties for its tubular device.

On the contrary, applicants' invention is directed at a **catheter** that comprises a proximal end having a spiral cut or a plurality of offset cuts that form **an integral part** of the catheter. **No pull members** are necessary, because the portion with the spiral or offset cuts is part of the catheter. The purpose of such offset cuts is to avoid a kinking of the catheter tube.

Applicants have also amended claim 7 to introduce proper claim dependency, claim 10 to introduce the spiral spring element as in paragraph [0015] of the specification, and claim 11 to clarify the invention. Applicants believe that dependent claims 3, 7, 9-12, and 20 are allowable over the prior art of record in that they depend from independent claims 1 or 17, and therefore are allowable for the reasons stated above. Therefore, dependent claims 3, 6, 7, 9-12, 18, and 20 are allowable for the same reasons as claims 1 and 17.

### **The Obviousness Rejections under 35 U.S.C. § 103(a)**

Applicants have amended claim 4 to remove an unnecessary limitation on the direction of the offset cuts. See, e.g., FIG. 3, showing cuts not perpendicular to the catheter's axis. Applicants have also amended claim 15, to introduce proper dependency.

Claims 4, 15, and 19 have been rejected as obvious over Frisbie in view of Schwartz and/or Larson. Applicants submit that because claims 1 and 17 have been amended to distinguish over Frisbie, the obviousness rejection over those references must also fail. Neither the Schwartz nor Larson teach or suggest the limitations that are absent from Frisbie.

As demonstrated above, Frisbie does not teach or disclose the claimed invention because it is directed at apparatus that is substantially different in form and use than applicants' invention. Further, Frisbie provides no teaching or suggestion that would have motivated one of ordinary skill in the art to include any of the features of Larson and/or Schwartz to combine or modify the device in Frisbie.

Accordingly, applicants respectfully request the withdrawal of the rejections of claims 4, 15, and 19 under 35 U.S.C. § 103(a).

### **New Claims**

New independent claim 22 is directed at a catheter having a plurality of balls mounted on the proximal end of the catheter shaft, which provides kink-free bending of the shaft. Support can be found in the specification, e.g., at paragraph [0017].

New dependent claims 23-25 are directed at modes of affixing the plurality of balls to the shaft. Support can be found in the specification, e.g., at paragraph [0017].

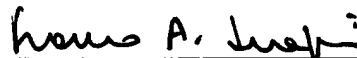
Applicant submits that the structure recited in new claims 22-25 is not anticipated by the combination of Frisbie and Magram, both because Frisbie is not applicable prior art, as demonstrated above, and because Magram is directed at a guidewire having a plurality of balls disposed at the distal end to provide a smoother progression of the guide wire, and not at a catheter having a plurality of balls disposed at the proximal end to improve catheter bending.

### **Conclusion**

In view of the foregoing amendment and comments, applicants respectfully submit that the application is now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

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Respectfully submitted,



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